

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH V. REECE	:	CIVIL ACTION
	:	
v.	:	
	:	
MACK TRUCKS, INC.,	:	
INTERNATIONAL UNION OF UNITED	:	
AUTOMOBILE, AEROSPACE AND AGRI-	:	
CULTURAL IMPLEMENT WORKERS OF	:	
AMERICA (UAW), et al.	:	NO. 99-464

MEMORANDUM AND ORDER

Fullam, Sr. J.

May , 1999

Plaintiff is suing his employer, Mack Trucks, Inc., and his union representatives, for alleged breaches of a collective bargaining agreement and the duty of good faith representation. The complaint contains seven counts, but there is much overlap and duplication. The defendant Mack Trucks, Inc. has filed a motion to dismiss various counts of the complaint on the ground that they are pre-empted by the LMRA.

Movant is named in five of the seven counts. Count I charges violations of the collective bargaining agreement, invoking Section 301 of the LMRA. Count II charges Mack with having intentionally interfered with the union-defendants' duty of fair representation. I agree with the defendant's contention that Count II adds nothing to the 301 claim in Count I, but see no need to dismiss Count II for that reason.

The other three challenged counts assert state-law

claims: Count V for breach of the implied covenant of good faith and fair dealing, Count VI for fraud and misrepresentation, and Count VII for "punitive damages." A claim for punitive damages is not a separate and independent claim, and should not form the basis of a separate count of the complaint. And none of the factual averments of the complaint suffice to support a claim for punitive damages. Count VII will therefore be dismissed. Count V, the claim for breach of the implied covenant of good faith and fair dealing, is pre-empted by the LMRA since it is based entirely upon the contract of employment. Count V will therefore be dismissed, as subsumed within Counts I and II. The same is true of Count VI, since the only fraud and misrepresentation alleged is that the defendant falsely represented facts showing that it was in compliance with the collective bargaining agreement.

An Order follows.

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ORDER

AND NOW, this day of May, 1999, IT IS ORDERED that
Counts V, VI and VII of plaintiff's complaint are DISMISSED WITH
PREJUDICE.

John P. Fullam, Sr. J.